

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

HAYS COUNTY DEFENDANTS' ORIGINAL ANSWER

TO THE HONORABLE UNITED STATES DISTRICT JUDGE LEE YEAKEL:

Defendants Hays County Sheriff Gary Cutler (“Sheriff Cutler”) and Hays County Sheriff’s Office (“CCSO”) Corrections Officer Bryan Thomas (“CO Thomas”) (collectively “Defendants”) file this Answer to Plaintiff’s Original Complaint (Doc. 1).

I.

ANSWER

1. In response to Section I, Previous Lawsuits, of the Complaint, Defendants admit that Salvador Sanchez (“Plaintiff”) filed the described lawsuit on December 16, 2021. Defendants admit all remaining allegations in Section I, Previous Lawsuits, of the Complaint. However, Defendants deny that is the only lawsuit related to Plaintiff’s imprisonment, as Plaintiff has also filed additional lawsuits under the following case numbers related to his imprisonment: No. 5:21-CV-01256-OLG, No. 5:21-CV-01287-JKP, and No. 1:22-CV-00164-LY-DH.

2. In response to Section II, Place of Present Confinement, of the Complaint, Defendants deny that Plaintiff is currently incarcerated in the Hays County Jail.

3. Defendants deny all factual allegations contained in Section III, Exhaustion of Grievance Procedures, of the Complaint.

4. In response to Section IV.A., Parties to the Suit, of the Complaint, Defendants admit that is Plaintiff's name, but deny that is Plaintiff's current address, as he is no longer incarcerated at the Hays County Jail.

5. In response to Section IV.B., Parties to the Suit, Defendant #1, of the Complaint, without a full name, Defendants are currently without knowledge or information sufficient to admit or deny all factual allegations contained therein.

6. In response to Section IV.B., Parties to the Suit, Defendant #2, of the Complaint, without a full name, Defendants are currently without knowledge or information sufficient to admit or deny all factual allegations contained therein.

7. In response to Section IV.B., Parties to the Suit, Defendant #3, of the Complaint, Defendants admit that, during the time period complained of by Plaintiff, Sheriff Cutler was the duly-elected Sheriff of Hays County.

8. In response to the first sentence of Section V, Statement of Claim, of the Complaint (p. 6), Defendants admit that an incident did occur involving Plaintiff on May 29, 2021. The remainder of the first sentence of Section V, Statement of Claim, of the Complaint contains only legal conclusions to which no response is required.

9. In response to the second sentence of Section V, Statement of Claim, of the Complaint (p. 6), Defendants admit that Plaintiff was incarcerated at the Hays County Jail on May 29, 2021, but deny all remaining factual allegations contained therein.

10. Defendants admit all factual allegations contained in the third sentence of Section V, Statement of Claim, of the Complaint (p. 6).

11. In response to the fifth sentence of Section V, Statement of Claim, of the Complaint (p. 6), Defendants admit that, on June 25, 2021, Plaintiff was diagnosed with a fracture of his right

wrist; however, Defendants deny that the fracture was received on May 29, 2021. Instead, Defendants admit that the injury occurred during a fight in which Plaintiff was involved and for which he sought medical treatment on June 6, 2021.

12. In response to the sixth sentence of Section V, Statement of Claim, of the Complaint (p. 6), Defendants are without knowledge or information sufficient to admit or deny all factual allegations contained therein.

13. In response to the seventh sentence of Section V, Statement of Claim, of the Complaint (p. 6), Defendants admit that Plaintiff submitted a grievance dated June 24, 2021, related to the incident which occurred on May 29, 2021. Defendants further admit that Plaintiff filed the instant lawsuit on November 14, 2022. Defendants further admit that Plaintiff was transferred to Comal County on August 3, 3021, but deny that it was to “wash their hands” of Plaintiff. Defendants deny all remaining factual allegations contained in the seventh sentence of Section V, Statement of Claim, of the Complaint.

14. In response to the eighth sentence of Section V, Statement of Claim, of the Complaint (p. 6), Defendants deny all factual allegations contained therein and state that Plaintiff received all necessary medical treatment.

15. In response to the ninth sentence of Section V, Statement of Claim, of the Complaint (pp. 6-7), Defendants deny that Hays County failed to provide medical treatment to Plaintiff and further deny that they violated Plaintiff’s constitutional rights. Defendants are without knowledge or information sufficient to admit or deny the remainder of the factual allegations contained in the nineth sentence of Section V, Statement of Claim, of the Complaint, namely the condition of Plaintiff’s hand and any prognosis for the hand made after Plaintiff left the Hays County Jail.

16. In response to the tenth sentence of Section V, Statement of Claim, of the Complaint (p. 7), Defendants deny all factual allegations contained therein and further deny that Defendants violated Plaintiff's constitutional rights.

17. In response to the eleventh sentence of Section V, Statement of Claim, of the Complaint (p. 7), Defendants are without knowledge or information sufficient to admit or deny all factual allegations contained therein.

18. In response to the twelfth sentence of Section V, Statement of Claim, of the Complaint (p. 7), Defendants admit that Plaintiff filed this suit based on allegations that Defendants violated his 14th Amendment rights, by Defendants deny that they violated Plaintiff's constitutional rights.

19. There is no response required to the statement Plaintiff made in the thirteenth sentence of Section V, Statement of Claim, of the Complaint (p. 7).

20. There is no response required to the request Plaintiff made in the fourteenth sentence of Section V, Statement of Claim, of the Complaint (p. 7).

21. In response to the first bulleted paragraph of Section V, Statement of Claim, of the Complaint (p. 8), Defendants deny all factual allegations contained therein.

22. In response to the second bulleted paragraph of Section V, Statement of Claim, of the Complaint (p. 8), Defendants deny that Plaintiff did not receive proper medical attention or care while in the Hays County Jail, but are without knowledge or information sufficient to admit or deny the remaining factual allegations contained therein.

23. In response to the third bulleted paragraph of Section V, Statement of Claim, of the Complaint (p. 8), Defendants admit that Sheriff Cutler is the duly-elected Sheriff of Hays County and that Sheriff Cutler is responsible for the provision of medical services to inmates housed in

the Hays County Jail, but Defendants deny that Plaintiff was denied proper and necessary medical attention or care while in the Hays County Jail.

24. In response to Section VI, Relief, of the Complaint, Defendants deny that Plaintiff is entitled to any relief.

25. In response to Section VII.A., General Background Information, of the Complaint after reasonable inquiry, Defendants are without knowledge or information sufficient to admit or deny all factual allegations contained therein.

26. In response to Section VII.B., General Background Information, of the Complaint, after reasonable inquiry, Defendants are without knowledge or information sufficient to admit or deny all factual allegations contained therein.

27. In response to Section VIII.A., Sanctions, of the Complaint, after reasonable inquiry, Defendants are without knowledge or information sufficient to admit or deny all factual allegations contained therein.

28. In response to Section VIII.B., Sanctions, of the Complaint, which Plaintiff left blank, after reasonable inquiry, Defendants are without knowledge or information sufficient to admit or deny all factual allegations contained therein.

29. In response to Section VIII.C., Sanctions, of the Complaint, which Plaintiff left blank, Defendants state that Plaintiff has been warned or notified that sanctions could be imposed.

30. In response to Section VIII.D., Sanctions of the Complaint, which Plaintiff left blank, Defendants state that Plaintiff was warned or notified by the United States District Court for the Western District of Texas, Austin Division, on May 31, 2021, in Case No. 1:21-CV-01175-LY.

II.
AFFIRMATIVE DEFENSES

31. Plaintiff has failed to state a claim upon which relief can be granted.
32. Plaintiff's claims are barred, in whole or in part, by the doctrine of qualified immunity. Defendants have not violated any established right under the Constitution or laws of the United States or any political subdivision or any act of Congress providing for the protection of civil rights. In the alternative, Defendants have not violated any clearly established constitutional or statutory rights that a reasonable person is likely to have known and is, therefore, entitled to qualified immunity.
33. Plaintiff has failed to identify a policy, practice, or custom that is the moving force behind any alleged constitutional right.
34. Plaintiff has failed to properly name a governmental entity as a defendant.
35. Plaintiff has not suffered any damages.
36. The damages alleged by the Plaintiff are not attributable to Defendants' conduct.

WHEREFORE, PREMISES CONSIDERED, Hays County Sheriff Gary Cutler and Corrections Officer Bryan Thomas pray that this Court dismiss this action, and for any and all necessary and proper relief to which they may show themselves justly entitled.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on the 3rd day of January, 2023, I electronically filed with the Clerk of Court the foregoing document using the CM/ECF system and, further, that I provided service of such filing on the following party by certified mail, return receipt requested:

Salvador Sanchez #00247645
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Richmond, Texas 77649

Plaintiff, Pro Se

/s/ Michael Shaunessy
MICHAEL SHAUNESSY